



Agenda Date: 06/08/09

Agenda Item: 5A

## STATE OF NEW JERSEY

### Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

[www.nj.gov/bpu](http://www.nj.gov/bpu)

### WATER

IN THE MATTER OF THE PETITION OF  
MIDDLESEX WATER COMPANY FOR APPROVAL  
OF A PURCHASED WATER ADJUSTMENT CLAUSE  
PURSUANT TO N.J.A.C. 14:9-7.1, ET SEQ.

) ORDER ADOPTING INITIAL  
) DECISION/STIPULATION  
)  
) BPU DOCKET NO. WR09010036  
) OAL DOCKET NO. PUCRA 01650-2009N

(SERVICE LIST ATTACHED)

#### BY THE BOARD:

On January 12, 2009, Middlesex Water Company, ("Middlesex" or "Company"), a public utility of the State of New Jersey, filed a petition with the New Jersey Board of Public Utilities ("Board") pursuant to N.J.A.C. 14:9-7.1, et seq., seeking Board approval of a purchased water adjustment clause ("PWAC") to recover increased water purchased costs together with deferred costs and associated expenses. The total proposed revenue requirement increase requested amounted to \$985,791 per year.

By this Order, the Board considers the Initial Decision recommending adoption of the Stipulation of Settlement ("Stipulation") executed by the Company, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), Board Staff ("Staff"), and two Intervenors, the Old Bridge Municipal Utilities Authority ("OBMUA") and the Township of East Brunswick ("East Brunswick") (collectively, the "Parties"), agreeing to an overall increase in revenues in the amount of \$921,647 or 1.58%.

#### BACKGROUND/PROCEDURAL HISTORY

Middlesex is a water utility providing water service to approximately 59,000 general water service customers in the municipalities of Woodbridge, South Plainfield, Metuchen, Carteret, South Amboy and Edison, Middlesex County, and in a portion of Clark, Union County (collectively "GWS Customers"); as well as on a contractual basis to the Township of Edison, Boroughs of Highland Park and Sayreville, the OBMUA, and the Marlboro Township Municipal Utilities Authority ("MTMUA") (collectively, the "Contract Customers"). Middlesex also provides services on a special contract basis, for water treatment and pumping services only, to East Brunswick.

GWS Customers receive finished water that is distributed through Middlesex's transmission facilities. The Contract Customers and East Brunswick receive service that differs from that provided by Middlesex to its GWS Customers. East Brunswick purchases water from the New Jersey Water Supply Authority ("NJWSA") and sends this unfinished water to Middlesex, which, in turn, treats the water and sends the finished water back to East Brunswick's facilities for distribution to East Brunswick's customers. The Contract Customers are provided with finished



water that is treated by Middlesex and subsequently distributed by the Contract Customers. The Contract Customers asserted that they do not utilize Middlesex's transmission facilities in the provision of service by Middlesex.

Middlesex purchases water through two water purchase contracts: (1) for untreated water from the NJWSA, and (2) for treated water from New Jersey American Water Company ("NJAW"). Middlesex was notified of increases in the purchased water rate per thousand gallons from NJAW effective October 23, 2008, pursuant to BPU Docket No. WR08050371, and December 8, 2008, pursuant to BPU Docket No. WR08010020. Middlesex was also notified of an increase in the purchased water rate per thousand gallons from NJWSA effective July 1, 2008, and that a further increase in the NJWSA rate per thousand gallons has been proposed to be effective on July 1, 2009. The total proposed revenue requirement increase requested for these two purchased water contracts amounts to \$985,791 per year.

This matter was transmitted to the Office of Administrative Law ("OAL") on February 2, 2009, as a contested case, and was assigned to Administrative Law Judge ("ALJ") Irene Jones. A pre-hearing conference was held on March 3, 2009, and Pre-hearing Order issued on March 17, 2009. OBMUA and East Brunswick filed Motions to Intervene on March 4 and February 27, 2009, respectively, which were granted by ALJ Jones. The MTMUA has been allowed to participate informally in this matter.<sup>1</sup>

After proper notice, a public hearing was held in Woodbridge on April 29, 2009, at 7:30 pm. No members of the public appeared at the public hearing to provide comments on the Company's proposed PWAC rate filing.

Subsequent to the public hearings the Parties and MTMUA engaged in settlement negotiations. As a result of those discussions, the Parties reached a settlement on all issues and entered into a Stipulation. A copy of the Stipulation is attached to this Order.

ALJ Jones issued her Initial Decision on June 5, 2009, recommending adoption of the Stipulation executed by the Parties, finding that the Parties had voluntarily agreed to the Stipulation and that the Stipulation fully disposes of all issues and was consistent with law. MTMUA does not object to the Stipulation. No exceptions were received by the Board.

#### DISCUSSION AND FINDINGS

As more fully discussed in the attached Stipulation, the Parties agreed that the following increases<sup>2</sup> are reasonable and appropriate to allow the Company to recover increased purchased water expenses:

- a) The PWAC will be established at an overall revenue requirement increase of \$921,647 or 1.58% over present rate revenues.
- b) For the GWS customers, a PWAC charge of \$0.08923 per thousand gallons (\$0.6675 per thousand cubic feet) is proposed. The average bill for a residential water customer with 5/8" meter and using 77,780 gallons of water per year (10,400 cubic feet) will increase \$6.96 per year or an increase of 1.77%, (\$1.74 per quarter) and will result in an

<sup>1</sup> Although MTMUA did not intervene in this proceeding, the Parties allowed MTMUA to appear informally. MTMUA participated in settlement discussions with the Parties.

<sup>2</sup> As East Brunswick purchases its water directly from NJWSA, the increased purchase water costs sought in this proceeding are not attributable to the services Middlesex provides to East Brunswick.



increase in an annual residential water bill from the current annual rate of \$392.80 (\$98.20 per quarter) to \$399.76 per year (\$99.94 per quarter).

- c) For the Contract Customers, a PWAC charge of \$41.18 per million gallons will be established.

Having reviewed the Initial Decision and the Stipulation, the Board FINDS that the Parties have voluntarily agreed to the Stipulation, and that the Stipulation fully disposes of all issues in this proceeding and is consistent with the law. The Board FINDS the Initial Decision, which adopts the Stipulation to be reasonable, in the public interest, and in accordance with the law. Therefore, the Board HEREBY ADOPTS the Initial Decision and the Stipulation attached hereto, including all attachments and schedules, as its own, incorporating by reference the terms and conditions of the Stipulation, as if they were fully set forth at length herein, subject to the following:

In accordance with the provisions of N.J.A.C. 14:9-7.4, the Petitioner shall file with the Board, no later than 45 days after the adjustment clause has been in effect for one year, a PWAC true-up schedule in connection with this proceeding. Copies of the true-up schedules shall be served upon all parties to the present proceeding.

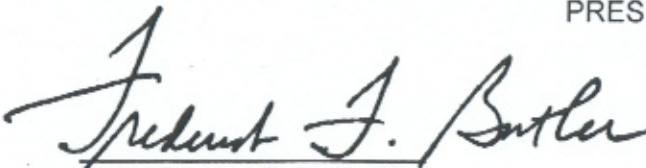
The Board HEREBY ACCEPTS the tariff pages attached to the Stipulation as filed with the Board, to be effective as of the date of this Order.

The effective date of this Order is as dated below:

DATED: 6/10/09

BOARD OF PUBLIC UTILITIES  
BY:

  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

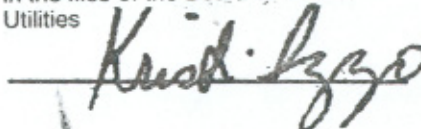
  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



In the Matter of the Petition of Middlesex Water Company  
For Approval of a Purchased Water Adjustment Clause  
Pursuant to N.J.A.C. 14:9-7.1, et seq.

BPU Docket No. WR09010036  
OAL Docket No. PUCRA 01650-2009N

**SERVICE LIST**

Kenneth Quinn, Esq.  
Vice President and General Counsel  
A. Bruce O'Connor, V.P. and  
Chief Financial Officer  
Middlesex Water Company  
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Iselin, NJ 08830

Debra Robinson, Esq.  
Susan McClure, Esq.  
Division of Rate Counsel  
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P.O. Box 46005  
Newark, NJ 07102

Anne M. Shatto, DAG  
Department of Law and Public Safety  
Division of Law  
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Newark, NJ 07101

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Wilentz, Goldman & Spitzer, PA  
Old Bridge Municipal Utilities Authority  
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Catherine E. Tamasik, Esq.  
DeCotiis, Fitzpatrick, Cole & Wisler, LLP  
Township of East Brunswick  
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Teaneck, NJ 07666

Peter S. Wersinger, III, Esq.  
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Wickatunk, NJ 07764

L. Mason Neely, CFO  
Township of East Brunswick  
1 Jean Walling Civic Center  
P.O. Box 1081  
East Brunswick, NJ 08816



STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

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IN THE MATTER OF THE PETITION OF	:	
MIDDLESEX WATER COMPANY FOR	:	
APPROVAL OF A PURCHASED WATER	:	BPU Docket No.: WR09010036
ADJUSTMENT CLAUSE PURSUANT TO	:	OAL Docket No.: PUCRA 01650-2009N
<u>N.J.A.C. 14:9-7.1, ET SEQ.</u>	:	

---

STIPULATION OF SETTLEMENT

APPEARANCES:

Kenneth J. Quinn, Esq., on behalf of Middlesex Water Company, Petitioner

Anne Marie Shatto, Deputy Attorney General (Anne Milgram, Attorney General of New Jersey), on behalf of the Staff of the New Jersey Board of Public Utilities

Susan E. McClure, Esq., Assistant Deputy Public Advocate, on behalf of the Division of Rate Counsel

Matthew M. Weissman, Esq., Wilentz, Goldman & Spitzer, P.A., on behalf of the Old Bridge Municipal Utilities Authority

Catherine E. Tamasik, Esq., DeCotiis, Fitzpatrick, Cole & Wisler, LLP, on behalf the Township of East Brunswick Water Utility

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

This Stipulation of Settlement resolves all of the issues raised in BPU Docket No. WR09010036 in which Middlesex Water Company ("Middlesex," "Company" or "Petitioner") is seeking Board approval of a Purchased Water Adjustment Clause ("PWAC") to recover increased purchased water costs, together with deferred costs, and associated expenses as more fully set forth and described in the Exhibits attached to the Petition filed herein. The Parties that have participated in these proceedings are as follows: Middlesex, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board of Public Utilities ("Staff"). The following entities filed Motions to Intervene, which were not opposed by the Company, and were granted full intervention status by Administrative Law Judge Irene Jones: the Old Bridge Municipal Utilities Authority ("Old Bridge"), and the East Brunswick Water Utility ("East Brunswick"). The Marlboro Township Municipal Utilities Authority ("MTMUA") has participated informally in this matter, but will not be executing this Stipulation.

As a result of an analysis of the petition, pre-filed testimony and exhibits, conferences, negotiations, responses to information requests, and a public hearing held in the service territory, Middlesex, Rate Counsel, Staff, Old Bridge and East Brunswick (hereinafter referred to as "the Signatory Parties") have come to an agreement on the issues in dispute in this matter. The Signatory Parties hereto agree and stipulate as follows:

The procedural history of this matter is as follows:

On January 12, 2009, Middlesex Water Company, a public utility corporation of the State of New Jersey pursuant to N.J.A.C. 14:9-7.1, et seq filed a petition with the New Jersey Board of



Public Utilities (the "Board") seeking Board approval of a Purchased Water Adjustment Clause to recover increased purchased water costs together with deferred costs, and associated expenses.

Middlesex purchases water through two water purchase contracts: (1) for untreated water from the New Jersey Water Supply Authority ("NJWSA") and (2) for treated water from New Jersey American Water Company ("NJAW"). Middlesex was notified of increases in the purchased water rate per thousand gallons from NJAW effective October 23, 2008, pursuant to BPU Docket No. WR08050371, and December 8, 2008, pursuant to BPU Docket No. WR08010020. Middlesex was also notified of an increase in the purchased water rate per thousand gallons from NJWSA effective July 1, 2008, and that a further increase in the NJWSA rate per thousand gallons has been proposed to be effective on July 1, 2009. The total proposed revenue requirement increase requested for these two purchased water contracts amounts to \$985,791 per year.

The Petitioner proposes to increase its overall PWAC rate from its current \$0.00 per thousand gallons of water to \$0.0799 per thousand gallons of water or \$0.5976 per thousand cubic feet.

On February 2, 2009, the Board transmitted this matter to the Office of Administrative Law ("OAL"), after which Administrative Law Judge Irene Jones was assigned to hear the case. A Pre-hearing Conference (via telephone) was convened by Judge Jones on March 3, 2009, and a Pre-hearing Order issued on March 17, 2009. After proper notice, a public hearing in the service territory was held in Woodbridge, New Jersey on the evening of April 29, 2009. No members of the public appeared to provide comments.

In accordance with the provisions of the Pre-hearing Order, a settlement conference was held on May 11, 2009, at which the following parties participated: Middlesex, Rate Counsel,

Staff, and Old Bridge. As a result of this settlement conference, the following settlement terms were adopted.

#### SETTLEMENT TERMS

1. The purchased water costs established pursuant to Petitioner's last base rate proceeding (BPU Docket No. WR07040275, dated October 26, 2007 and November 29, 2007) amounted to \$4,545,421 as appears on the attached Exhibit A. The new base cost of purchased water as agreed to by the Parties is agreed to be \$5,058,959, resulting in an increase in purchased water cost of \$513,538, as more fully set forth on attached Exhibit A.
2. The Parties have agreed that the deferred purchased water costs is agreed to be \$283,919 (see Exhibit A).
3. The revenue tax factor is 13.4748% and the resulting revenue tax is \$124,190.
4. The sum of the allowable expenses in this matter is set forth in Exhibit A and is agreed to be \$921,647.
5. For purposes of this matter, the base consumption established in Petitioner's last base rate case in million gallons (mg) is agreed to be 14,977.8 mg. This amount is reduced by the amount attributable to East Brunswick<sup>1</sup> of 2,637.9 mg, resulting in a base consumption for recovery of the PWAC of 12,339.9 mg as more fully set forth in Exhibit A.

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<sup>1</sup> East Brunswick purchases untreated water from the New Jersey Water Supply Authority (NJWSA) under its own contract with NJWSA. Middlesex pumps the untreated water to its primary treatment plant from the intake connection with the NJWSA. Once Middlesex performs the water treatment services, East Brunswick takes delivery of the treated water as its primary treatment plant. Middlesex does not purchase water from the NJWSA to fulfill its obligation under the contract with East Brunswick. Therefore, none of the increased purchased water costs sought in this or agreed in this proceeding should be allocated to East Brunswick.



6. For the General Water Service (GWS) customers under Rate Schedule No. 1 (Revised Tariff Sheet No. 33A), a charge of \$.08923 per thousand gallons (\$.6675 per thousand cubic feet) will be made to recover the increased purchased water costs. (See attached Rate Schedule No. 1).
7. For service under contract customers, Rate Schedule No. 5 (Revised Tariff Sheet No. 40A), PWAC charges agreed to herein result in a charge of \$41.18 per million gallons. (See attached Rate Schedule No. 5).
8. As a result of this settlement, a residential customer with a 5/8" meter using 2,600 cubic feet (19,445 gallons) of water per quarter would see his or her water bill increase from \$98.20 to \$99.94 per quarter, (an increase of \$1.74 per quarter) or an increase of 1.77%.
9. The Parties hereto agree that upon Board approval, in Petitioner's next base rate proceeding, the cost of purchased water will not be a component of such base rate proceeding. In accordance with the provisions of N.J.A.C. 14:9-7.4, the Petitioner shall file with the Board, not later than 45 days after the adjustment clause has been in effect for one year, a PWAC true-up schedule in connection with this proceeding. Copies of the true-up schedules will be served upon all parties to the present proceeding. In accordance with the provisions of N.J.A.C. 14:9-7.3, this PWAC, if approved by the Board, shall remain in effect until the Company's next rate case, provided that the Company submits an annual year-end true up as described above and an annual petition for adjustment of the PWAC amount in accordance with N.J.A.C. 14:9-7.4.
10. This settlement contemplates an effective date of July 1, 2009, for implementation of the PWAC charge.

11. This Stipulation is the product of negotiations by the Signatory Parties, and it is an express condition of the settlement embodied by this Stipulation that it be presented to the Board in its entirety without modification or condition. It is also the intent of the Signatory Parties to this Stipulation that this settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The Signatory Parties to this Stipulation specifically agree that if adopted in its entirety by the Board, no appeal shall be taken by them from the order adopting same as to those issues upon which the Signatory Parties have stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. The Signatory Parties further agree that the purpose of this Stipulation is to reach fair and reasonable rates, and that it will avoid costly litigation of certain issues and that with respect to any policy or other issues which were compromised in the spirit of reaching an agreement, none of the Signatory Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter.
12. It is specifically understood and agreed that this Stipulation has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Company, the Board, Board Staff, Rate Counsel, Old Bridge and East Brunswick shall not be



deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein in total or by specific item. The Signatory Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of the Stipulation.

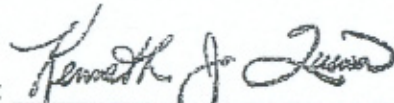
13. All rates are subject to audit by the Board.

14. This Stipulation may be executed in as many counterparts as there are Signatory Parties of this Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument.

MIDDLESEX WATER COMPANY

\_\_\_\_\_  
Date

By: \_\_\_\_\_



Kenneth J. Quinn, Esq.  
Attorney of Petitioner

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey  
Board of Public Utilities

\_\_\_\_\_  
Date:

By: \_\_\_\_\_

Anne Marie Shatto, DAG

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MIDDLESEX WATER COMPANY

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Kenneth J. Quinn, Esq.  
Attorney of Petitioner

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey  
Board of Public Utilities


\_\_\_\_\_  
Date:

By:   
Anne Marie Shatto, DAG



STEFANIE A. BRAND, ESQ., DIRECTOR  
DIVISION OF RATE COUNSEL

6/1/09  
Date: \_\_\_\_\_

By:   
Susan E. McClure, Esq.  
Assistant Deputy Public Advocate  
Division of Rate Counsel

OLD BRIDGE MUNICIPAL  
UTILITIES AUTHORITY

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Matthew M. Weissman, Esq.  
Wilentz, Goldman & Spitzer, P.A.  
Attorney for Intervenor

TOWNSHIP OF EAST BRUNSWICK WATER  
UTILITY

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Catherine E. Tamasik, Esq.,  
DeCotiis, Fitzpatrick, Cole & Wisler, LLP.  
Attorney for Intervenor

STEFANIE A. BRAND, ESQ., DIRECTOR  
DIVISION OF RATE COUNSEL

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Susan E. McClure, Esq.  
Assistant Deputy Public Advocate  
Division of Rate Counsel


OLD BRIDGE MUNICIPAL  
UTILITIES AUTHORITY

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Matthew M. Weissman, Esq.  
Wilentz, Goldman & Spitzer, P.A.  
Attorney for Intervenor

TOWNSHIP OF EAST BRUNSWICK WATER  
UTILITY

6/1/09  
\_\_\_\_\_  
Date:

By:   
Catherine E. Tamasik, Esq.,  
DeCotiis, Fitzpatrick, Cole & Wisler, LLP.  
Attorney for Intervenor



MIDDLESEX WATER COMPANY  
PURCHASED WATER ADJUSTMENT CLAUSE  
PROPOSED COST PER UNIT OF VOLUME

EXHIBIT A

PURCHASED WATER COSTS PURSUANT TO BPU DOCKET NO. WR07040275	\$ 4,545,421
NEW COST OF PURCHASED WATER	5,058,959
INCREASE IN PURCHASED WATER COST	<u>\$ 513,538</u>
DEFERRED PURCHASED WATER COSTS	283,919
REVENUE TAX FACTOR @ 13.4748%	124,190
SUM OF ALLOWABLE EXPENSES	<u>\$ 921,647</u>
BASE CONSUMPTION PURSUANT TO BPU DOCKET NO. WR07040275 IN MILLION GALLONS (MG)	14,977.8
LESS: EAST BRUNSWICK	<u>(2,637.9)</u>
BASE CONSUMPTION FOR RECOVERY OF PWAC	12,339.9

EXHIBIT A

MIDDLESEX WATER COMPANY

B.P.U. No. 1 - WATER

Fourth Revised Sheet No. 33A

Cancelling

Third Sheet No. 33A

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RATE SCHEDULE NO. 1 (Continued)

GENERAL WATER SERVICE - GS

PURCHASED WATER ADJUSTMENT CLAUSE (PWAC) CHARGES

A charge of \$0.6675 per thousand cubic feet will be made to recover the increased purchased water costs.

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Date of Issue: January 9, 2009

Effective for Service  
Rendered on and After:

Issued by: Dennis W. Doll, President  
1500 Ronson Road  
Iselin, New Jersey 08830-3020

Filed pursuant to an Order of the Board of Public Utilities, State of New Jersey, dated \_\_\_\_\_, in Docket No. WR09010036.



MIDDLESEX WATER COMPANY

Fourth Revised Sheet No. 40A

Cancelling

Third Sheet No. 40A

B.P.U. No. 1 - WATER

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RATE SCHEDULE NO. 5

SERVICE UNDER CONTRACT - SC

PURCHASED WATER ADJUSTMENT CLAUSE (PWAC) CHARGES

A charge of \$41.18 per million gallons will be made to recover the increased purchased water costs.

---

Date of Issue: January 9, 2009

Effective for service

Rendered on and after:

Issued by: Dennis W. Doll, President  
1500 Ronson Road  
Iselin, New Jersey 08830-3020

Filed pursuant to an Order of the Board of Public Utilities, State of New Jersey, dated \_\_\_\_\_, in Docket No. WR-09010036.



MIDDLESEX  
WATER COMPANY

1500 Ronson Road  
P.O. Box 1500  
Iselin, New Jersey 08830-0452

Tel. (732) 634-1500  
Fax (732) 750-5981

NASDAQ Stock Market Symbol: MSEX  
[www.middlesexwater.com](http://www.middlesexwater.com)

Via Facsimile Only  
(973) 648-2358

June 4, 2009

Honorable Irene Jones  
Administrative Law Judge  
Office of Administrative Law  
33 Washington Street  
Newark, NJ 07102

RE: Middlesex Water Company – PWAC  
BPU Docket: WR09010036  
OAL Docket: OAL Docket No. PUCRA 01650-2009

Dear Judge Jones:

Attached please find a fully executed Stipulation of Settlement in connection with the above matter for Your Honor's consideration in connection with the Initial Decision.

Please let me know if Your Honor requires any additional information.

Respectfully,

Kenneth J. Quinn  
Vice President, General Counsel,  
Secretary & Treasurer

KJQ:rk

cc: Service List (w/enclosures)



STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

---

IN THE MATTER OF THE PETITION OF	:	
MIDDLESEX WATER COMPANY FOR	:	
APPROVAL OF A PURCHASED WATER	:	BPU Docket No.: WR09010036
ADJUSTMENT CLAUSE PURSUANT TO	:	OAL Docket No.: PUCRA 01650-2009N
<u>N.J.A.C. 14:9-7.1, ET SEQ.</u>	:	

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STIPULATION OF SETTLEMENT

APPEARANCES:

Kenneth J. Quinn, Esq., on behalf of Middlesex Water Company, Petitioner

Anne Marie Shatto, Deputy Attorney General (Anne Milgram, Attorney General of New Jersey), on behalf of the Staff of the New Jersey Board of Public Utilities

Susan E. McClure, Esq., Assistant Deputy Public Advocate, on behalf of the Division of Rate Counsel

Matthew M. Weissman, Esq., Wilentz, Goldman & Spitzer, P.A., on behalf of the Old Bridge Municipal Utilities Authority

Catherine E. Tamasik, Esq., DeCotiis, Fitzpatrick, Cole & Wisler, LLP, on behalf the Township of East Brunswick Water Utility

TO THE HONORABLE BOARD OF PUBLIC UTILITIES:

This Stipulation of Settlement resolves all of the issues raised in BPU Docket No. WR09010036 in which Middlesex Water Company ("Middlesex," "Company" or "Petitioner") is seeking Board approval of a Purchased Water Adjustment Clause ("PWAC") to recover increased purchased water costs, together with deferred costs, and associated expenses as more fully set forth and described in the Exhibits attached to the Petition filed herein. The Parties that have participated in these proceedings are as follows: Middlesex, the Department of the Public Advocate, Division of Rate Counsel ("Rate Counsel"), and the Staff of the Board of Public Utilities ("Staff"). The following entities filed Motions to Intervene, which were not opposed by the Company, and were granted full intervention status by Administrative Law Judge Irene Jones: the Old Bridge Municipal Utilities Authority ("Old Bridge"), and the East Brunswick Water Utility ("East Brunswick"). The Marlboro Township Municipal Utilities Authority ("MTMUA") has participated informally in this matter, but will not be executing this Stipulation.

As a result of an analysis of the petition, pre-filed testimony and exhibits, conferences, negotiations, responses to information requests, and a public hearing held in the service territory, Middlesex, Rate Counsel, Staff, Old Bridge and East Brunswick (hereinafter referred to as "the Signatory Parties") have come to an agreement on the issues in dispute in this matter. The Signatory Parties hereto agree and stipulate as follows:

The procedural history of this matter is as follows:

On January 12, 2009, Middlesex Water Company, a public utility corporation of the State of New Jersey pursuant to N.J.A.C. 14:9-7.1, et seq filed a petition with the New Jersey Board of



Public Utilities (the "Board") seeking Board approval of a Purchased Water Adjustment Clause to recover increased purchased water costs together with deferred costs, and associated expenses.

Middlesex purchases water through two water purchase contracts: (1) for untreated water from the New Jersey Water Supply Authority ("NJWSA") and (2) for treated water from New Jersey American Water Company ("NJAW"). Middlesex was notified of increases in the purchased water rate per thousand gallons from NJAW effective October 23, 2008, pursuant to BPU Docket No. WR08050371, and December 8, 2008, pursuant to BPU Docket No. WR08010020. Middlesex was also notified of an increase in the purchased water rate per thousand gallons from NJWSA effective July 1, 2008, and that a further increase in the NJWSA rate per thousand gallons has been proposed to be effective on July 1, 2009. The total proposed revenue requirement increase requested for these two purchased water contracts amounts to \$985,791 per year.

The Petitioner proposes to increase its overall PWAC rate from its current \$0.00 per thousand gallons of water to \$0.0799 per thousand gallons of water or \$0.5976 per thousand cubic feet.

On February 2, 2009, the Board transmitted this matter to the Office of Administrative Law ("OAL"), after which Administrative Law Judge Irene Jones was assigned to hear the case. A Pre-hearing Conference (via telephone) was convened by Judge Jones on March 3, 2009, and a Pre-hearing Order issued on March 17, 2009. After proper notice, a public hearing in the service territory was held in Woodbridge, New Jersey on the evening of April 29, 2009. No members of the public appeared to provide comments.

In accordance with the provisions of the Pre-hearing Order, a settlement conference was held on May 11, 2009, at which the following parties participated: Middlesex, Rate Counsel,

Staff, and Old Bridge. As a result of this settlement conference, the following settlement terms were adopted.

#### SETTLEMENT TERMS

1. The purchased water costs established pursuant to Petitioner's last base rate proceeding (BPU Docket No. WR07040275, dated October 26, 2007 and November 29, 2007) amounted to \$4,545,421 as appears on the attached Exhibit A. The new base cost of purchased water as agreed to by the Parties is agreed to be \$5,058,959, resulting in an increase in purchased water cost of \$513,538, as more fully set forth on attached Exhibit A.
2. The Parties have agreed that the deferred purchased water costs is agreed to be \$283,919 (see Exhibit A).
3. The revenue tax factor is 13.4748% and the resulting revenue tax is \$124,190.
4. The sum of the allowable expenses in this matter is set forth in Exhibit A and is agreed to be \$921,647.
5. For purposes of this matter, the base consumption established in Petitioner's last base rate case in million gallons (mg) is agreed to be 14,977.8. mg. This amount is reduced by the amount attributable to East Brunswick<sup>1</sup> of 2,637.9 mg, resulting in a base consumption for recovery of the PWAC of 12,339.9 mg as more fully set forth in Exhibit A.

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<sup>1</sup> East Brunswick purchases untreated water from the New Jersey Water Supply Authority (NJWSA) under its own contract with NJWSA. Middlesex pumps the untreated water to its primary treatment plant from the intake connection with the NJWSA. Once Middlesex performs the water treatment services, East Brunswick takes delivery of the treated water as its primary treatment plant. Middlesex does not purchase water from the NJWSA to fulfill its obligation under the contract with East Brunswick. Therefore, none of the increased purchased water costs sought in this or agreed in this proceeding should be allocated to East Brunswick.



6. For the General Water Service (GWS) customers under Rate Schedule No. 1 (Revised Tariff Sheet No. 33A), a charge of \$.08923 per thousand gallons (\$.06675 per thousand cubic feet) will be made to recover the increased purchased water costs. (See attached Rate Schedule No. 1).
7. For service under contract customers, Rate Schedule No. 5 (Revised Tariff Sheet No. 40A), PWAC charges agreed to herein result in a charge of \$41.18 per million gallons. (See attached Rate Schedule No. 5).
8. As a result of this settlement, a residential customer with a 5/8" meter using 2,600 cubic feet (19,445 gallons) of water per quarter would see his or her water bill increase from \$98.20 to \$99.94 per quarter, (an increase of \$1.74 per quarter) or an increase of 1.77%.
9. The Parties hereto agree that upon Board approval, in Petitioner's next base rate proceeding, the cost of purchased water will not be a component of such base rate proceeding. In accordance with the provisions of N.J.A.C. 14:9-7.4, the Petitioner shall file with the Board, not later than 45 days after the adjustment clause has been in effect for one year, a PWAC true-up schedule in connection with this proceeding. Copies of the true-up schedules will be served upon all parties to the present proceeding. In accordance with the provisions of N.J.A.C. 14:9-7.3, this PWAC, if approved by the Board, shall remain in effect until the Company's next rate case, provided that the Company submits an annual year-end true up as described above and an annual petition for adjustment of the PWAC amount in accordance with N.J.A.C. 14:9-7.4.
10. This settlement contemplates an effective date of July 1, 2009, for implementation of the PWAC charge.

11. This Stipulation is the product of negotiations by the Signatory Parties, and it is an express condition of the settlement embodied by this Stipulation that it be presented to the Board in its entirety without modification or condition. It is also the intent of the Signatory Parties to this Stipulation that this settlement, once accepted and approved by the Board, shall govern all issues specified and agreed to herein. The Signatory Parties to this Stipulation specifically agree that if adopted in its entirety by the Board, no appeal shall be taken by them from the order adopting same as to those issues upon which the Signatory Parties have stipulated herein. The Signatory Parties agree that the within Stipulation reflects mutual balancing of various issues and positions and is intended to be accepted and approved in its entirety. Each term is vital to this Stipulation as a whole, since the Signatory Parties hereto expressly and jointly state that they would not have signed this Stipulation had any terms been modified in any way. In the event any particular aspect of this Stipulation is not accepted and approved by the Board, then any Party hereto materially affected thereby shall not be bound to proceed under this Stipulation. The Signatory Parties further agree that the purpose of this Stipulation is to reach fair and reasonable rates, and that it will avoid costly litigation of certain issues and that with respect to any policy or other issues which were compromised in the spirit of reaching an agreement, none of the Signatory Parties shall be prohibited from or prejudiced in arguing a different policy or position before the Board in any other proceeding, as such agreements pertain only to this matter and to no other matter.
12. It is specifically understood and agreed that this Stipulation has been made exclusively for the purpose of this proceeding. Except as expressly provided herein, the Company, the Board, Board Staff, Rate Counsel, Old Bridge and East Brunswick shall not be



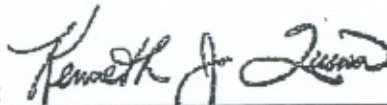
deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein in total or by specific item. The Signatory Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of the Stipulation.

13. All rates are subject to audit by the Board.

14. This Stipulation may be executed in as many counterparts as there are Signatory Parties of this Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument.

MIDDLESEX WATER COMPANY

By: \_\_\_\_\_



Kenneth J. Quinn, Esq.  
Attorney of Petitioner

\_\_\_\_\_  
Date

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey  
Board of Public Utilities

By: \_\_\_\_\_

Anne Marie Shatto, DAG

\_\_\_\_\_  
Date:

deemed to have approved, agreed to, or consented to any principle or methodology underlying or supposed to underlie any agreement provided herein in total or by specific item. The Signatory Parties further agree that this Stipulation is in no way binding upon them in any other proceeding, except to enforce the terms of the Stipulation.

13. All rates are subject to audit by the Board.

14. This Stipulation may be executed in as many counterparts as there are Signatory Parties of this Stipulation, each of which counterparts shall be an original, but all of which shall constitute one and the same instrument.

MIDDLESEX WATER COMPANY

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Kenneth J. Quinn, Esq.  
Attorney of Petitioner

ANNE MILGRAM  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for the Staff of the New Jersey  
Board of Public Utilities

\_\_\_\_\_  
Date:

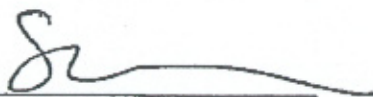
By:   
Anne Marie Shatto, DAG



STEFANIE A. BRAND, ESQ., DIRECTOR  
DIVISION OF RATE COUNSEL

6/1/09  
Date:

By:



Susan E. McClure, Esq.  
Assistant Deputy Public Advocate  
Division of Rate Counsel

OLD BRIDGE MUNICIPAL  
UTILITIES AUTHORITY

\_\_\_\_\_  
Date:

By:

\_\_\_\_\_  
Matthew M. Weissman, Esq.  
Wilentz, Goldman & Spitzer, P.A.  
Attorney for Intervenor

TOWNSHIP OF EAST BRUNSWICK WATER  
UTILITY

\_\_\_\_\_  
Date:

By:

\_\_\_\_\_  
Catherine E. Tamasik, Esq.,  
DeCotiis, Fitzpatrick, Cole & Wisler, LLP.  
Attorney for Intervenor

STEFANIE A. BRAND, ESQ., DIRECTOR  
DIVISION OF RATE COUNSEL

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Susan E. McClure, Esq.  
Assistant Deputy Public Advocate  
Division of Rate Counsel

OLD BRIDGE MUNICIPAL  
UTILITIES AUTHORITY

June 4, 2009  
Date:

By: Matthew M. Weissman  
Matthew M. Weissman, Esq.  
Wilentz, Goldman & Spitzer, P.A.  
Attorney for Intervenor

TOWNSHIP OF EAST BRUNSWICK WATER  
UTILITY

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Catherine E. Tamasik, Esq.,  
DeCotiis, Fitzpatrick, Cole & Wisler, LLP.  
Attorney for Intervenor



STEFANIE A. BRAND, ESQ., DIRECTOR  
DIVISION OF RATE COUNSEL

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Susan E. McClure, Esq.  
Assistant Deputy Public Advocate  
Division of Rate Counsel


OLD BRIDGE MUNICIPAL  
UTILITIES AUTHORITY

\_\_\_\_\_  
Date:

By: \_\_\_\_\_  
Matthew M. Weissman, Esq.  
Wilentz, Goldman & Spitzer, P.A.  
Attorney for Intervenor

TOWNSHIP OF EAST BRUNSWICK WATER  
UTILITY

6/1/09  
\_\_\_\_\_  
Date:

By:   
Catherine B. Tamasik, Esq.,  
DeCotiis, Fitzpatrick, Cole & Wisler, LLP.  
Attorney for Intervenor

MIDDLESEX WATER COMPANY  
PURCHASED WATER ADJUSTMENT CLAUSE  
PROPOSED COST PER UNIT OF VOLUME

EXHIBIT A

PURCHASED WATER COSTS PURSUANT TO BPU DOCKET NO. WR07040275	\$ 4,545,421
NEW COST OF PURCHASED WATER	5,058,959
INCREASE IN PURCHASED WATER COST	<u>\$ 513,538</u>
DEFERRED PURCHASED WATER COSTS	283,919
REVENUE TAX FACTOR @ 13.4748%	124,190
SUM OF ALLOWABLE EXPENSES	<u>\$ 921,647</u>
BASE CONSUMPTION PURSUANT TO BPU DOCKET NO. WR07040275 IN MILLION GALLONS (MG)	14,977.8
LESS: EAST BRUNSWICK	<u>(2,637.9)</u>
BASE CONSUMPTION FOR RECOVERY OF PWAC	12,339.9

EXHIBIT A



MIDDLESEX WATER COMPANY

Fourth Revised Sheet No. 33A

Cancelling

Third Sheet No. 33A

B.P.U. No. 1 - WATER

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RATE SCHEDULE NO. 1 (Continued)

GENERAL WATER SERVICE - GS

PURCHASED WATER ADJUSTMENT CLAUSE (PWAC) CHARGES

A charge of \$0.6675 per thousand cubic feet will be made to recover the increased purchased water costs.

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Date of Issue: January 9, 2009

Effective for Service  
Rendered on and After:

Issued by: Dennis W. Doll, President  
1500 Ronson Road  
Iselin, New Jersey 08830-3020

Filed pursuant to an Order of the Board of Public Utilities, State of New Jersey, dated \_\_\_\_\_, in Docket No. WR09010036.

MIDDLESEX WATER COMPANY

B.P.U. No. 1 - WATER

Fourth Revised Sheet No. 40A

Cancelling

Third Sheet No. 40A

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RATE SCHEDULE NO. 5

SERVICE UNDER CONTRACT - SC

PURCHASED WATER ADJUSTMENT CLAUSE (PWAC) CHARGES

A charge of \$41.18 per million gallons will be made to recover the increased purchased water costs.

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Date of Issue: January 9, 2009

Effective for service  
Rendered on and after;

Issued by: Dennis W. Doll, President  
1500 Ronson Road  
Iselin, New Jersey 08830-3020

Filed pursuant to an Order of the Board of Public Utilities, State of New Jersey, dated \_\_\_\_\_, in Docket  
No. WR-09010036.



**MIDDLESEX WATER COMPANY  
PURCHASED WATER ADJUSTMENT CLAUSE (PWAC)**

BPU Docket: WR09010036

OAL Docket: OAL Docket No. PUCRA 01650-2009

Updated: 4/21/09

**Middlesex Water Company**

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**MIDDLESEX WATER COMPANY  
PURCHASED WATER ADJUSTMENT CLAUSE (PWAC)**

BPU Docket: WR09010036

OAL Docket: OAL Docket No. PUCRA 01650-2009

Updated: 4/21/09

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**Contract Customers – Intervenor**

Arthur Haney Old Bridge MUA P.O. Box 72 Laurence Harbor, NJ 08879 (732) 566-2534 <a href="mailto:ahobmua@verizon.net">ahobmua@verizon.net</a>	L. Mason Neely Township of East Brunswick 1 Jean Walling Civic Center P.O. Box 1081 East Brunswick, NJ 08816 <a href="mailto:Lou.Neely@EastBrunswick.org">Lou.Neely@EastBrunswick.org</a> (732) 390-6860 (733) 390-6995 Fax	Catherine E. Tamasik DeCotiis, Fitzpatrick, Cole & Wisler, LLP Glenpointe Centre West 500 Frank W. Burr Boulevard, Suite 31 Teaneck, NJ 07666 <a href="mailto:ctamasik@decotiislaw.com">ctamasik@decotiislaw.com</a> (201) 928-1100 (201) 928-0588 Fax
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**MIDDLESEX WATER COMPANY**  
**PURCHASED WATER ADJUSTMENT CLAUSE (PWAC)**  
**BPU Docket: WR09010036**  
**OAL Docket: OAL Docket No. PUCRA 01650-2009**

Updated: 4/21/09

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